

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TIMOTHY KING, *et.al.*,
Plaintiffs,

Case No. 20-cv-13134
Hon. Linda V. Parker

v.

GRETCHEN WHITMER, in her official capacity
as Governor of the State of Michigan, *et.al.*,
Defendants,

and

ROBERT DAVIS,
Intervenor Defendant.

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**INTERVENOR DEFENDANT ROBERT DAVIS' MOTION TO
EXPEDITE BRIEFING, SCHEDULING AND ADJUDICATION OF
INTERVENOR DEFENDANT ROBERT DAVIS' EMERGENCY**

MOTIONS TO STRIKE PLAINTIFFS' AMENDED COMPLAINT [6] AND EMERGENCY MOTION FOR TRO [7] (ECF NOS. 42, 45).

NOW COMES, INTERVENOR DEFENDANT ROBERT DAVIS, by and through his attorney, ANDREW A. PATERSON, and for his Motion to Expedite the Briefing, Scheduling and Adjudication of Intervenor Defendant Robert Davis' Amended/Corrected Emergency Motion to Strike Plaintiffs' Amended Complaint [6] (ECF No. 42) and Emergency Motion to Strike Plaintiffs' Emergency Motion for TRO [7] (ECF No. 45), states the following:

Intervenor Defendant Robert Davis respectfully asks this Court to expedite the briefing, scheduling and adjudication of Intervenor Defendant Robert Davis' Amended/Corrected Emergency Motion to Strike Plaintiffs' Amended Complaint [6] (ECF No. 42) and Emergency Motion to Strike Plaintiffs' Emergency Motion for TRO [7] (ECF No. 45). **Expedited scheduling and briefing is necessary because Plaintiffs' Emergency Motion for TRO (ECF No. 7), which is based solely on the facts pled and alleged in Plaintiffs' improperly filed amended complaint (ECF No. 6), is currently pending before the Court for expedited adjudication. However,**

if the Court determines and concludes that Plaintiffs' amended complaint (ECF No.6) was not properly filed in accordance with Fed.R.Civ.P. 15(a)(1),(2), the Court will not have to issue a written opinion adjudicating Plaintiffs' Emergency Motion for TRO (ECF No. 7) because the Court would be obligated to strike Plaintiffs' amended complaint (ECF No. 6) and Emergency Motion for TRO (ECF No. 7) from the record.

Intervenor Defendant Robert Davis acknowledges that, in the ordinary course of events, the Eastern District of Michigan's Local Court Rules, allow 14 days for a response to a nondispositive motion and another 7 days for the filing of a reply. While that schedule is appropriate for almost all matters, here, in light of the fact that Plaintiffs' Emergency Motion for TRO (ECF No. 7) is currently pending before the Court and has been fully briefed by all of the parties in accordance with the Court's briefing schedule (ECF No. 24), prompt adjudication of Intervenor Defendant Davis' instant motion is necessary to prevent the Court from spending a considerable amount of time adjudicating a matter that arguably is not properly before the Court.

Thankfully, the Local Rules for the Eastern District of Michigan anticipate exceptions. Local Rule 1.2 explains:

For good cause shown, for a particular matter, any Judge of this Court may temporarily suspend the operation of the Rules.

More specifically related to the case at bar, a comment to Local Rule 7.1(e), advises as follows: “The court retains the inherent authority to alter the briefing schedule.” This guidance is a logical extension of the basic principle that the court is always empowered to manage its docket. “With good reason, district courts ordinarily enjoy broad discretion in matters of pretrial management, scheduling, and docket control.” *Kimble v Hoson*, 439 F.3d 331, 2226 (6th Cir. 2006).

Here, as noted, Intervenor Defendant Robert Davis is confronted with the precise reason the exception exists considering the Court is currently considering Plaintiffs’ Emergency Motion for TRO (ECF No. 7), which is based solely on facts pled and alleged in an amended complaint (ECF No. 6) that was not properly filed in accordance with the Fed.R.Civ.P. 15(a)(1),(2). Accordingly, Intervenor Defendant Robert Davis proposes the following briefing and hearing schedule for his pending Emergency Motions to Strike (ECF Nos. 42, 45):

- Plaintiffs', Defendants' and Intervenor Defendants' Responses due Friday, December 4, 2020 by Noon.
- Intervenor Defendant Robert Davis' Reply due, Friday, December 4, 2020 by 3 p.m.
- **No hearing is required.** The Court can render a decision on the briefs and without argument on Friday, December 4, 2020.

Intervenor Defendant Robert Davis realizes that the relief sought is extraordinary, but these unusual circumstances warrant this special consideration. Accordingly, Intervenor Defendant Robert Davis would like to thank this Honorable Court for the opportunity to brief this important issue.

Dated: December 3, 2020

Respectfully submitted,

/s/ ANDREW A. PATERSON
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CERTIFICATE OF SERVICE

I, ANDREW A. PATERSON, certify that forgoing document(s) was filed and served via the Court's electronic case filing and noticing system (ECF) this 3rd day of December, 2020, which will automatically send notification of such filing to all attorneys and parties of record registered electronically.

Dated: December 3, 2020

Respectfully submitted,

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